

**ASSEMBLY – 35th SESSION**

**TECHNICAL COMMISSION**

**Agenda Item 22:      Development of an up-to-date consolidated statement of ICAO  
continuing policies related to air navigation**

**DELIMITATION OF AIR TRAFFIC SERVICES AIRSPACES**

(Presented by the United States of America)

**SUMMARY**

This paper supports the long standing ICAO policy that Flight Information Regions (FIRs) should be defined on the basis of technical and operational considerations, and recommends that airspace should not be segmented for purposes that do not contribute to the safety or operational efficiency of air traffic management (ATM).

**REFERENCES**

Doc 7300, *Convention on International Civil Aviation*  
Doc 9082, *ICAO Policies on Charges for Airports and Air Navigation Services*  
Doc 9790, *Assembly Resolutions in Force* (as of 5 October 2001)  
Annex 2 — *Rules of the Air*  
Annex 11 — *Air Traffic Services*  
A35-WP/8

**1. INTRODUCTION**

1.1 Article 1 of the Convention on International Civil Aviation (the Chicago Convention) acknowledges that, “*every State has complete and exclusive sovereignty over the airspace above its territory*”. ICAO and its Member States long ago realized that sovereignty is best safeguarded by delegating responsibility for air navigation services through establishment of Flight Information Regions (FIRs). ICAO’s policy is to consolidate and extend FIRs to achieve greater efficiency, whenever possible.

1.2 Recently, several Contracting States have proposed dividing established FIRs into smaller segments for purposes other than the efficient handling of air traffic. Often these proposals are spurred by political and other non-safety related concerns. But in some cases, they are motivated by an interest in sharing in available user charges. Under ICAO’s guiding principles, user charges must be reasonably related to the cost of providing the services.

1.3 It is well established in the Chicago Convention, Assembly resolutions, Annex 11, and other ICAO guidance material that FIRs should be established and designed with regard to the efficiency of traffic flows and that user charges should only be imposed to pay for necessary air

navigation facilities and services, as identified in the regional air navigation plans.

## 2. DISCUSSION

2.1 Segmenting established FIRs for purposes unrelated to: 1) gaining operational efficiency and 2) preserving existing levels of safety is in opposition to ICAO resolutions and guidelines.

2.2 Annex 11 (paragraph 2.1.1 and accompanying note) confirms the policy that the establishment of FIRs has no direct relationship to sovereignty:

*“Note - If one State delegates to another State the responsibility for the provision of air traffic services over its territory, it does so without derogation of its national sovereignty. Similarly, the providing State’s responsibility is limited to technical and operational considerations and does not extend beyond those pertaining to the safety and expedition of aircraft using the concerned airspace.”*

Annex 11, paragraph 2.1.2, further states that Air Traffic Services (ATS) responsibility for airspace over the high seas shall be determined on the basis of regional air navigation agreements.

2.3 Assembly resolution A33-14, Appendix N, in resolving clause 1, specifically states that:

*“the boundaries of Air Traffic Services (ATS) airspaces, whether over States’ territories or over the high seas, shall be established on the basis of technical and operational considerations with the aim of ensuring optimum efficiency and economy for both providers and users of the services.”*

2.9 In addition, Associated Practice 1 of the same resolution says:

*“Contracting States should seek the most efficient and economic delineation of ATS airspaces, the optimum location of points for transfer of responsibility and the most efficient coordination procedures in cooperation with other States concerned and with the Organization.”*

2.10 In October 2003, the 11<sup>th</sup> ICAO Air Navigation Conference endorsed the Air Traffic Management (ATM) Operational Concept which urges:

*“ICAO, States and planning and implementation regional groups (PIRGs), (to) consider the global ATM operational concept as the common global framework to guide planning for implementation of ATM systems and to focus all ATM development work.”*

The Operational Concept says in part:

*2.2.2 While acknowledging sovereignty, airspace will be organized globally. Homogeneous ATM areas and/or routing areas will be kept to a minimum and consideration will be given to consolidating adjacent areas. The concerned members of the ATM community will undertake strategic planning for any defined area. The ATM service provider managing that airspace will effect tactical changes in specific airspace.*

*2.2.3 The coordinated planning between adjacent areas will be conducted with the objective of achieving a single airspace continuum. The airspace within that continuum*

*will be free of operational discontinuities and inconsistencies. Airspace will be organized to accommodate the needs of the different types of users on a timely basis. Transition between areas will be transparent to the users at all times.*

2.6 It should also be noted that Article 15 of the Chicago Convention says, inter alia:

*“No fee, dues or other charges shall be imposed by any Contracting State in respect solely of the right of transit over or entry into or exist from its territory of any aircraft of a Contracting States or persons or property thereon.”*

2.7 It is well established by ICAO that charges can only be imposed to support facilities and services providing benefit to international air transportation. The introduction to the ICAO Policies on Charges for Airports and Air Navigation Services (Doc 9082) includes the following:

### ***Scope and Proliferation of Charges***

8. *The Council recommends that States:*

- i) Permit the imposition of charges only for services and functions that are provided for, directly related to, or ultimately beneficial for civil aviation operations.*
- ii) Refrain from imposing charges that discriminate against international civil aviation in relation to other modes of international transport.*

2.8 Further in the same document (Doc 9082) paragraph 38 ii) states:

*“The costs to be taken into account should be those assessed in relation to the facilities and services, including satellite services, provided for and implemented under the ICAO Regional Air Navigation Plan(s), supplemented where necessary pursuant to recommendations made by the relevant ICAO Regional Air Navigation Meeting, as approved by the Council. Any other facilities and services, unless provided at the request of operators, should be excluded, as should the cost of facilities or services provided on contract or by the carriers themselves, as well as any excessive construction, operation, or maintenance expenditures.”*

2.9 Assembly resolution A33-19, Consolidated Statement of Continuing ICAO Policies in the Air Transportation Field, Appendix F, Section II notes that, *“...a balance should be maintained between the respective financial interests of providers of airports and air navigation services and airlines.”* The Regional Air Navigation Plans should reflect airspace delineation based on efficiency and economy for the users as well as the providers, and preserving that balance.

## **3. CONCLUSION**

3.1 Segmenting the airspace for political reasons or to extract further user charges not only unnecessarily reduces efficiency and increases the cost to the user, but also is counter to long-established ICAO policies.

3.2 Dividing established FIRs into smaller pieces of airspace increases coordination requirements and increases air traffic controller workload without providing benefit to the user. In addition, this further division of airspace may bring a reduction in the level of safety as a result of the increase in frequency changes brought about by the airspace segmentation.

4. **ACTION BY THE ASSEMBLY**

- 4.1 The Assembly is invited to approve the amendment to the A33-14, Appendix N presented in A35-WP/8 with changes as proposed in the appendix to this paper.

**DRAFT RESOLUTION A35-X (to supersede Resolution A33-14)**

**APPENDIX N<sup>3</sup>**

**~~Delineation~~ Delimitation of air traffic services (ATS) airspaces  
in regional air navigation plans**

...

*The Assembly resolves*, with reference to regional air navigation plans, that:

1. ~~the boundaries of~~ the boundaries of ATS airspaces, whether over States' territories or over the high seas, shall be ~~established delimited~~ established on the basis of technical and operational considerations with the aim of ensuring safety, and ~~optimum~~ optimizing efficiency and economy for both providers and users of the services;
2. established ATS airspace should not be segmented for reasons other than technical, operational, and safety considerations;